

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RUSSELL LEE X VANCE,	:	1:21-cv-892
Plaintiff,	:	
	:	
v.	:	Hon. John E. Jones III
	:	
SUPERINTENDENT THOMAS	:	Hon. Martin C. Carlson
MCGINLEY,	:	
Defendant.	:	

ORDER

July 9, 2021

AND NOW, upon consideration of the Report and Recommendation (Doc. 5) of United States Magistrate Judge Martin C. Carlson recommending that Plaintiff's complaint be dismissed without prejudice pursuant to 18 U.S.C. §1915A for failure to state a claim upon which relief may be granted, and noting that the Plaintiff has endeavored to file an amended complaint (Doc. 9) which is equally devoid of factual allegations supporting a claim against the Defendant as the initial complaint, and further noting that Plaintiff has not filed objections¹ to the report,

¹ When parties fail to file timely objections to a magistrate judge's report and recommendation, the Federal Magistrates Act does not require a district court to review the report before accepting it. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). As a matter of good practice, however, the Third Circuit expects courts to "afford some level of review to dispositive legal issues raised by the report." *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987). The advisory committee notes to Rule 72(b) of the Federal Rules of Civil Procedure indicate that "[w]hen no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." FED. R. CIV. P. 72(b), advisory committee notes; *see also Henderson*, 812 F.2d at 878-79 (stating that "the failure of a party to object to a magistrate's

and finding that there is no clear error on the record, *see Nara v. Frank*, 488 F.3d 187, 194 (3d Cir. 2007) (explaining that “failing to timely object to [a report and recommendation] in a civil proceeding may result in forfeiture of *de novo* review at the district court level”) and the Court further finding Judge Carlson’s analysis to be thorough, well-reasoned, and fully supported by the record **IT IS HEREBY**

ORDERED THAT:

1. The Report and Recommendation (Doc. 5) of Magistrate Judge Carlson is **ADOPTED** in its entirety.
2. The Plaintiff’s amended complaint (Doc. 9) is **DISMISSED WITH PREJUDICE**.
3. The Clerk of Court is directed to **CLOSE** the file on this case.

s/ John E. Jones III
John E. Jones III, Chief Judge
United States District Court
Middle District of Pennsylvania

legal conclusions may result in the loss of the right to de novo review in the district court”); *Tice v. Wilson*, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006) (holding that the court’s review is conducted under the “plain error” standard); *Cruz v. Chater*, 990 F. Supp. 375-78 (M.D. Pa. 1998) (holding that the court’s review is limited to ascertaining whether there is “clear error on the face of the record”); *Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) (holding that the court will review the report and recommendation for “clear error”). The Court has reviewed the magistrate judge’s report and recommendation in accordance with this Third Circuit directive.